



General Assembly

January Session, 2007

Raised Bill No. 1431

LCO No. 5318

05318_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT ESTABLISHING A DEMONSTRATION PROJECT FOR AN
OFFICE OF ADMINISTRATIVE HEARINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2007*) There shall be within the
2 Executive Department an Office of Administrative Hearings for the
3 purpose of separating the adjudicatory function from the investigatory
4 and prosecutorial functions of agencies in the Executive Department
5 and to perform the impartial administration and conduct of hearings
6 of contested cases in accordance with the provisions of sections 1 to 11,
7 inclusive, and 23 of this act and chapter 54 of the general statutes. The
8 central office of the Office of Administrative Hearings shall be
9 established within Hartford County.

10 Sec. 2. (NEW) (*Effective July 1, 2007*) (a) A Chief Administrative Law
11 Judge shall be appointed by the Governor, to serve a term expiring on
12 March 1, 2008. Thereafter, the Governor shall, with the advice and
13 consent of the General Assembly, appoint the Chief Administrative
14 Law Judge to serve for a four-year term or until a successor has been
15 appointed and qualified. To be eligible for appointment, the Chief
16 Administrative Law Judge shall have been admitted to the practice of

17 law in this state for at least ten years and shall be knowledgeable on
18 the subject of administrative law. The Chief Administrative Law Judge
19 shall take the oath of office provided in section 1-25 of the general
20 statutes prior to commencing his or her duties, shall devote full time to
21 the duties of the office of Chief Administrative Law Judge and shall
22 not engage in the private practice of law. The Chief Administrative
23 Law Judge shall be eligible for reappointment.

24 (b) The Chief Administrative Law Judge may be removed during
25 his or her term by the Governor for good cause shown.

26 (c) The Chief Administrative Law Judge shall be exempt from the
27 classified service.

28 (d) The Chief Administrative Law Judge, administrative law judges,
29 assistants and other employees of the Office of Administrative
30 Hearings shall be entitled to the fringe benefits applicable to other state
31 employees, shall be included under the provisions of chapters 65 and
32 66 of the general statutes regarding disability and retirement of state
33 employees and shall receive full retirement credit for each year or
34 portion thereof for which retirement benefits are paid for service as
35 such Chief Administrative Law Judge, administrative law judge,
36 assistant or other employee.

37 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) The Chief Administrative
38 Law Judge shall be the chief executive officer of the Office of
39 Administrative Hearings and shall:

40 (1) Have all of the powers specifically granted in the general statutes
41 and any additional powers that are reasonable and necessary to enable
42 the Chief Administrative Law Judge to carry out the duties of his or
43 her office, including, but not limited to, the powers and duties
44 specified in section 4-8 of the general statutes;

45 (2) Assign administrative law judges in all cases referred to the
46 Office of Administrative Hearings, provided, in assigning an

47 administrative law judge to a case, the Chief Administrative Law
48 Judge shall, whenever practicable, assign an administrative law judge
49 who has expertise in the legal issues or general subject matter of the
50 proceeding;

51 (3) Have all the powers and duties of an administrative law judge;

52 (4) Prepare an edited version of a proposed final decision and final
53 decision that shall not disclose protected information in any case
54 where any provision of the general statutes, federal law, state or
55 federal regulations or an order of a court of competent jurisdiction bars
56 the disclosure of the identity of any person or party or bars the
57 disclosure of any other information;

58 (5) Collect, compile and prepare statistics and other data with
59 respect to the operations of the Office of Administrative Hearings and
60 submit annually to the Governor and the General Assembly a report
61 on such operations, including, but not limited to, the number of
62 hearings initiated, the number of proposed final decisions rendered,
63 the number of partial or total reversals of such decisions by the
64 agencies, the number of final decisions rendered and the number of
65 proceedings pending;

66 (6) Study the subject of administrative adjudication in all its aspects
67 and develop recommendations to promote the goals of impartiality,
68 fairness, uniformity and cost-effectiveness in the administration and
69 conduct of hearings of contested cases;

70 (7) Adopt regulations, in accordance with chapter 54 of the general
71 statutes, to carry out the provisions of sections 1 to 11, inclusive, and
72 23 of this act and sections 4-176e to 4-181a, inclusive, of the general
73 statutes, as amended by this act, and the policies of the Office of
74 Administrative Hearings in connection therewith. Such regulations,
75 with respect to contested cases heard by said office, shall supersede
76 any inconsistent agency regulations, policies or procedures, except
77 those mandated by the general statutes or federal law, and shall

78 include, but not be limited to, standards related to time limits for
79 agency action in contested cases pursuant to applicable provisions of
80 the general statutes, and standards for the giving of notices of
81 hearings, for the scheduling of hearings and for the assignment of
82 administrative law judges;

83 (8) Develop, in consultation with each agency subject to the
84 provisions of section 8 of this act and with the appropriate committee
85 or section of the Connecticut Bar Association, a program for the
86 continuing training and education of administrative law judges and
87 ancillary personnel, and implement such program; and

88 (9) Index, by name and subject, all written orders and final decisions
89 and make all indices, proposed final decisions and final decisions
90 available for public inspection and copying electronically and to the
91 extent required by the Freedom of Information Act, as defined in
92 section 1-200 of the general statutes.

93 (b) Any Deputy Chief Administrative Law Judge of the Office of
94 Administrative Hearings shall be appointed by the Chief
95 Administrative Law Judge from among the administrative law judges.

96 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) Notwithstanding any
97 provision of the general statutes, each full-time employee or
98 permanent part-time employee of an agency subject to the provisions
99 of section 8 of this act whose primary duties (1) are to conduct hearings
100 in contested cases and issue final decisions or proposed final decisions,
101 including, but not limited to, human rights referees, hearing
102 adjudicators and hearing officers, or (2) relate to providing
103 administrative services required for conducting such hearings and
104 issuing such decisions, shall be transferred to the Office of
105 Administrative Hearings, in accordance with the provisions of this
106 section and sections 4-38d, 4-38e and 4-39 of the general statutes.

107 (b) Persons transferred to the Office of Administrative Hearings
108 pursuant to this section and persons appointed by the Chief

109 Administrative Law Judge pursuant to chapter 67 of the general
110 statutes shall be in the classified service and subject to the provisions
111 of chapter 68 of the general statutes. Persons transferred to the Office
112 of Administrative Hearings pursuant to this section who are members
113 of an employee organization, as defined in section 5-270 of the general
114 statutes, at the time of their transfer shall continue to be represented by
115 such employee organization. Administrative law judges appointed by
116 the Chief Administrative Law Judge shall be represented by the
117 collective bargaining representative for administrative and residual
118 state employees.

119 (c) The salaries, seniority and benefits of persons transferred to the
120 Office of Administrative Hearings pursuant to this section shall not be
121 reduced as a result of the transfer.

122 (d) No promotions governed by any existing and applicable
123 memorandum of understanding between the Office of Labor Relations
124 and any collective bargaining representative for state employees shall
125 be denied, delayed, impaired or eliminated by the implementation of
126 sections 1 to 11, inclusive, of this act.

127 (e) (1) Persons transferred to the Office of Administrative Hearings
128 pursuant to this section who are members of a collective bargaining
129 unit at the time of their transfer shall (A) not lose the job classification
130 in which they are placed at the time of their transfer as a result of the
131 transfer, and (B) remain the beneficiaries of any existing and applicable
132 memorandum of understanding between the Office of Labor Relations
133 and any collective bargaining representative for state employees.

134 (2) Persons transferred to the Office of Administrative Hearings
135 pursuant to this section who are not members of a collective
136 bargaining unit at the time of their transfer, and persons appointed by
137 the Chief Administrative Law Judge, shall (A) have a job classification
138 commensurate with persons who are members of a collective
139 bargaining unit at the time of their transfer, and (B) be subject to and
140 become the beneficiaries of the terms of any existing and applicable

141 memorandum of understanding between the Office of Labor Relations
142 and any collective bargaining representative for state employees.

143 (f) Time served in other agencies by persons transferred to the
144 Office of Administrative Hearings pursuant to this section shall be
145 recognized as qualifying experience and time in the Office of
146 Administrative Hearings and shall count as successful and satisfactory
147 performance for career progression under any existing and applicable
148 memorandum of understanding between the Office of Labor Relations
149 and any collective bargaining representative for state employees.

150 (g) An administrative law judge, assistant or other employee of the
151 Office of Administrative Hearings who is removed, suspended,
152 demoted or subjected to disciplinary action or other adverse
153 employment action may appeal such action in accordance with the
154 applicable collective bargaining agreement.

155 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) Each administrative law
156 judge shall have been admitted to the practice of law in this state for at
157 least two years, except that such requirement shall not apply to any
158 administrative law judge transferred pursuant to section 4 of this act.
159 Each administrative law judge shall be knowledgeable on the subject
160 of administrative law.

161 (b) An administrative law judge assigned to hear matters pursuant
162 to section 10-76h of the general statutes shall receive training in
163 administrative hearing procedures, including due process, applicable
164 to the special education needs of children.

165 (c) An administrative law judge shall have the powers granted to
166 hearing officers and presiding officers pursuant to sections 1 to 11,
167 inclusive, and 23 of this act and chapter 54 of the general statutes.

168 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) All hearings in contested
169 cases conducted by the Office of Administrative Hearings shall be
170 conducted by an administrative law judge assigned by the Chief

171 Administrative Law Judge and shall be conducted in accordance with
172 sections 1 to 11, inclusive, and 23 of this act and sections 4-176e to 4-
173 181a, inclusive, of the general statutes, as amended by this act.

174 (b) Unless different time limits are provided by any provision of the
175 general statutes for contested cases before an agency, the time limits
176 provided in sections 4-176e to 4-181a, inclusive, of the general statutes,
177 as amended by this act, apply to all contested cases conducted by the
178 Office of Administrative Hearings.

179 Sec. 7. (NEW) (*Effective October 1, 2007*) An administrative law judge
180 may conduct hearings, mediations and settlement negotiations held by
181 the Office of Administrative Hearings. If a contested case is not
182 resolved through mediation or settlement, either party may proceed to
183 a hearing. An administrative law judge who attempted to settle or
184 mediate a matter may not thereafter be assigned to hear the matter. If a
185 contested case is resolved by stipulation, agreed settlement or consent
186 order to the administrative law judge, the administrative law judge
187 shall issue an order dismissing the contested case. The order shall
188 incorporate by reference such stipulation, agreed settlement or consent
189 order which shall be attached thereto. The order shall further provide
190 that no findings of fact or conclusions of law have been made
191 regarding any alleged violations of the law. The order and stipulation,
192 agreed settlement or consent order may be enforceable by any party in
193 Superior Court. A party may petition the superior court for the judicial
194 district of New Britain for enforcement of the order and stipulation,
195 agreed settlement or consent order and for appropriate temporary
196 relief or a restraining order.

197 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) Notwithstanding any
198 provision of the general statutes, and except as otherwise provided in
199 sections 9 and 10 of this act, on and after the effective date of this
200 section, the Office of Administrative Hearings shall conduct hearings
201 and render proposed final decisions or, if authorized or required by
202 law, final decisions in contested cases:

203 (1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of
204 the general statutes;

205 (2) Brought by or before the Department of Children and Families;

206 (3) Brought by or before the Department of Transportation; and

207 (4) Brought by or before the Commission on Human Rights and
208 Opportunities.

209 (b) Notwithstanding any provision of the general statutes, and
210 except as otherwise provided in sections 9 and 10 of this act, on and
211 after February 1, 2008, the Office of Administrative Hearings shall
212 conduct hearings and render proposed final decisions or, if authorized
213 or required by law, final decisions in contested cases:

214 (1) Pursuant to section 10-76h of the general statutes;

215 (2) Pursuant to subdivision (2) of subsection (b) of section 10-186
216 and section 10-187 of the general statutes; and

217 (3) Brought by or before the Department of Motor Vehicles pursuant
218 to section 14-36g, 14-40c, 14-44, 14-46g, 14-52, 14-52a, 14-64, 14-67c, 14-
219 67p, 14-72, 14-74, 14-79, 14-111, 14-111f, 14-111g, 14-111q, 14-134, 14-
220 163c, 14-163d, 14-191 or 14-253a of the general statutes.

221 (c) The powers, functions and duties of conducting hearings and
222 issuing decisions in contested cases enumerated in subsections (a) and
223 (b) of this section shall, on the applicable dates specified in said
224 subsections, be transferred to the Office of Administrative Hearings in
225 accordance with the provisions of sections 4-38d, 4-38e and 4-39 of the
226 general statutes.

227 (d) Any hearing officer under contract with an agency to conduct
228 hearings and issue decisions in contested cases enumerated in
229 subsections (a) and (b) of this section shall, on and after the applicable
230 dates specified in said subsections, continue to serve until all such

231 cases assigned to such hearing officer are completed, unless the Chief
232 Administrative Law Judge determines that the case shall be reassigned
233 to an administrative law judge.

234 Sec. 9. (NEW) (*Effective July 1, 2007*) No administrative law judge
235 may be assigned by the Chief Administrative Law Judge to hear a
236 contested case with respect to:

237 (1) Any hearing that is required by federal law to be conducted by a
238 specific agency or other hearing authority; or

239 (2) Any matter where the head of the agency, or one or more of the
240 members of a multimember agency, presides at the hearing in a
241 contested case.

242 Sec. 10. (NEW) (*Effective July 1, 2007*) On and after October 1, 2010,
243 the Governor, at the request of the head of any agency subject to the
244 provisions of section 8 of this act and for good cause shown, may
245 exempt such agency from the requirements of said section.

246 Sec. 11. (NEW) (*Effective July 1, 2007*) The Chief Administrative Law
247 Judge may contract with any political subdivision of this state to
248 provide an administrative law judge to the political subdivision for the
249 purpose of conducting hearings, mediations and settlements.

250 Sec. 12. Subsection (e) of section 2c-2b of the general statutes is
251 amended by adding subdivision (21) as follows (*Effective July 1, 2007*):

252 (NEW) (21) The Office of Administrative Hearings established
253 under section 1 of this act.

254 Sec. 13. Section 4-166 of the general statutes is repealed and the
255 following is substituted in lieu thereof (*Effective October 1, 2007*):

256 As used in this chapter and sections 1 to 11, inclusive, and 23 of this
257 act, unless the context otherwise requires:

258 (1) "Agency" means each state board, commission, department or

259 officer authorized by law to make regulations or to determine
260 contested cases, but does not include either house or any committee of
261 the General Assembly, the courts, the Council on Probate Judicial
262 Conduct, the Governor, Lieutenant Governor or Attorney General, or
263 town or regional boards of education, or automobile dispute
264 settlement panels established pursuant to section 42-181;

265 (2) "Contested case" means a proceeding, including but not
266 restricted to rate-making, price fixing and licensing, in which the legal
267 rights, duties or privileges of a party are required by state statute or
268 regulation to be determined by an agency or by the Office of
269 Administrative Hearings after an opportunity for hearing or in which a
270 hearing is in fact held, but does not include proceedings on a petition
271 for a declaratory ruling under section 4-176, as amended by this act,
272 hearings referred to in section 4-168 or hearings conducted by the
273 Department of Correction or the Board of Pardons and Paroles;

274 (3) "Final decision" means (A) the [agency] determination in a
275 contested case made pursuant to section 4-179, as amended by this act,
276 section 23 of this act and section 4-180, as amended by this act, (B) a
277 declaratory ruling issued by an agency pursuant to section 4-176, as
278 amended by this act, or (C) [an agency] a decision made after
279 reconsideration of a final decision. The term does not include a
280 preliminary or intermediate ruling or order, [of an agency,] or a ruling
281 [of an agency] granting or denying a petition for reconsideration;

282 (4) "Hearing officer" means an individual appointed by an agency to
283 conduct a hearing in an agency proceeding that is not conducted by an
284 administrative law judge pursuant to section 8 of this act. Such
285 individual may be a staff employee of the agency;

286 (5) "Intervenor" means a person, other than a party, granted status
287 as an intervenor by an agency in accordance with the provisions of
288 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as
289 amended by this act;

290 (6) "License" includes the whole or part of any agency permit,
291 certificate, approval, registration, charter or similar form of permission
292 required by law, but does not include a license required solely for
293 revenue purposes;

294 (7) "Licensing" includes the agency process respecting the grant,
295 denial, renewal, revocation, suspension, annulment, withdrawal or
296 amendment of a license;

297 (8) "Party" means each person (A) whose legal rights, duties or
298 privileges are required by statute to be determined by an agency
299 proceeding and who is named or admitted as a party, (B) who is
300 required by law to be a party in an agency proceeding, or (C) who is
301 granted status as a party under subsection (a) of section 4-177a, as
302 amended by this act;

303 (9) "Person" means any individual, partnership, corporation, limited
304 liability company, association, governmental subdivision, agency or
305 public or private organization of any character, but does not include
306 the agency conducting the proceeding;

307 (10) "Presiding officer" means the head of the agency presiding at a
308 hearing, the member of [an] a multimember agency or the hearing
309 officer designated by the head of the agency to preside at [the] a
310 hearing, or an administrative law judge presiding at a hearing;

311 (11) "Proposed final decision" means a final decision proposed by an
312 agency or a presiding officer under section 4-179, as amended by this
313 act, or section 23 of this act;

314 (12) "Proposed regulation" means a proposal by an agency under
315 the provisions of section 4-168 for a new regulation or for a change in,
316 addition to or repeal of an existing regulation;

317 (13) "Regulation" means each agency statement of general
318 applicability, without regard to its designation, that implements,
319 interprets, or prescribes law or policy, or describes the organization,

320 procedure, or practice requirements of any agency. The term includes
321 the amendment or repeal of a prior regulation, but does not include
322 (A) statements concerning only the internal management of any
323 agency and not affecting private rights or procedures available to the
324 public, (B) declaratory rulings issued pursuant to section 4-176, as
325 amended by this act, or (C) intra-agency or interagency memoranda;

326 (14) "Regulation-making" means the process for formulation and
327 adoption of a regulation;

328 (15) "Administrative law judge" means an administrative law judge
329 transferred or appointed in accordance with sections 2 to 5, inclusive,
330 of this act;

331 (16) "Head of the agency" means the individual or group of
332 individuals constituting the highest authority within an agency.

333 Sec. 14. Subsection (g) of section 4-176 of the general statutes is
334 repealed and the following is substituted in lieu thereof (*Effective*
335 *October 1, 2007*):

336 (g) If the agency conducts a hearing in a proceeding for a
337 declaratory ruling, the provisions of [subsection (b) of section 4-177c,]
338 section 4-178, as amended by this act, and section 4-179, as amended
339 by this act, shall apply to the hearing.

340 Sec. 15. Section 4-176e of the general statutes is repealed and the
341 following is substituted in lieu thereof (*Effective October 1, 2007*):

342 Except as otherwise required by the general statutes, a [hearing in
343 an agency proceeding may be held before (1)] contested case shall be
344 heard by (1) an administrative law judge, (2) the head of the agency,
345 (3) one or more of the members of a multimember agency, or (4) one or
346 more hearing officers, provided no individual who has personally
347 carried out the function of an investigator in a contested case may
348 serve as a hearing officer in that case. [, or (2) one or more of the
349 members of the agency.]

350 Sec. 16. Section 4-177 of the general statutes is repealed and the
351 following is substituted in lieu thereof (*Effective October 1, 2007*):

352 (a) In a contested case, all parties shall be afforded an opportunity
353 for hearing after reasonable notice from the agency.

354 (b) The notice shall be in writing and shall include: (1) A statement
355 of the time, place [,] and nature of the hearing or, if the contested case
356 has been referred to the Office of Administrative Hearings, a statement
357 that the matter has been referred to the Office of Administrative
358 Hearings and that the time and place of the hearing will be set by an
359 administrative law judge; (2) a statement of the legal authority and
360 jurisdiction under which the hearing is to be held; (3) a reference to the
361 particular sections of the statutes and regulations involved; and (4) a
362 short and plain statement of the matters asserted. If the agency or
363 party is unable to state the matters in detail at the time the notice is
364 served, the initial notice may be limited to a statement of the issues
365 involved. Thereafter, upon application, a more definite and detailed
366 statement shall be furnished.

367 (c) After an agency refers a contested case to the Office of
368 Administrative Hearings, the agency shall certify the official record in
369 such contested case to the Office of Administrative Hearings. The
370 Office of Administrative Hearings shall issue a notice in writing to all
371 parties that shall include a statement of the time, place and nature of
372 the hearing. Thereafter, a party shall file all documents that are to
373 become part of such record with the Office of Administrative
374 Hearings. The filing of such documents with the agency rather than
375 with the Office of Administrative Hearings shall not be a jurisdictional
376 defect and shall not be grounds for termination of the proceeding,
377 provided the administrative law judge may assess appropriate costs
378 and sanctions against a party who misfiles such documents on a
379 showing of prejudice resulting from a wilful misfiling. The Office of
380 Administrative Hearings shall maintain the official record of a
381 contested case referred to said office.

382 [(c)] (d) Unless precluded by law, a contested case may be resolved
383 by stipulation, agreed settlement [.] or consent order or by the default
384 of a party.

385 [(d)] (e) The record in a contested case shall include: (1) Written
386 notices related to the case; (2) all petitions, pleadings, motions and
387 intermediate rulings; (3) evidence received or considered; (4) questions
388 and offers of proof, objections and rulings thereon; (5) the official
389 transcript, if any, of proceedings relating to the case, or, if not
390 transcribed, any recording or stenographic record of the proceedings;
391 (6) proposed final decisions and exceptions thereto; and (7) the final
392 decision.

393 [(e)] (f) Any recording or stenographic record of the proceedings
394 shall be transcribed on request of any party. The requesting party shall
395 pay the cost of such transcript, unless otherwise provided by law.
396 Nothing in this section shall relieve an agency of its responsibility
397 under section 4-183, as amended by this act, to transcribe the record for
398 an appeal.

399 Sec. 17. Section 4-177a of the general statutes is repealed and the
400 following is substituted in lieu thereof (*Effective October 1, 2007*):

401 (a) The presiding officer shall grant a person status as a party in a
402 contested case if [that] such officer finds that: (1) Such person has
403 submitted a written petition to the agency or presiding officer, and
404 mailed copies to all parties, at least five days before the date of
405 hearing; and (2) the petition states facts that demonstrate that the
406 petitioner's legal rights, duties or privileges shall be specifically
407 affected by [the agency's] a decision in the contested case.

408 (b) The presiding officer may grant any person status as an
409 intervenor in a contested case if [that] such officer finds that: (1) Such
410 person has submitted a written petition to the agency or presiding
411 officer, and mailed copies to all parties, at least five days before the
412 date of hearing; and (2) the petition states facts that demonstrate that

413 the petitioner's participation is in the interests of justice and will not
414 impair the orderly conduct of the proceedings.

415 (c) The five-day requirement in subsections (a) and (b) of this
416 section may be waived at any time before or after commencement of
417 the hearing by the presiding officer on a showing of good cause.

418 (d) If a petition is granted pursuant to subsection (b) of this section,
419 the presiding officer may limit the intervenor's participation to
420 designated issues in which the intervenor has a particular interest as
421 demonstrated by the petition and shall define the intervenor's rights to
422 inspect and copy records, physical evidence, papers and documents, to
423 introduce evidence [.] and to argue and cross-examine on those issues.
424 The presiding officer may further restrict the participation of an
425 intervenor in the proceedings, including the rights to inspect and copy
426 records, to introduce evidence and to cross-examine, so as to promote
427 the orderly conduct of the proceedings.

428 Sec. 18. Section 4-177b of the general statutes is repealed and the
429 following is substituted in lieu thereof (*Effective October 1, 2007*):

430 In a contested case, the presiding officer may administer oaths, take
431 testimony under oath relative to the case, subpoena witnesses and
432 require the production of records, physical evidence, papers and
433 documents to any hearing held in the case. If any person disobeys the
434 subpoena or, having appeared, refuses to answer any question put to
435 [him] such person or to produce any records, physical evidence,
436 papers and documents requested by the presiding officer, the
437 administrative law judge or, if the hearing is conducted by the agency,
438 the agency may apply to the superior court for the judicial district of
439 [Hartford] New Britain or for the judicial district in which the person
440 resides, or to any judge of that court if it is not in session, setting forth
441 the disobedience to the subpoena or refusal to answer or produce, and
442 the court or judge shall cite the person to appear before the court or
443 judge to show cause why the records, physical evidence, papers and
444 documents should not be produced or why a question put to [him]

445 such person should not be answered. Nothing in this section shall be
446 construed to limit the authority of the agency, the administrative law
447 judge or any party as otherwise allowed by law.

448 Sec. 19. Section 4-177c of the general statutes is repealed and the
449 following is substituted in lieu thereof (*Effective October 1, 2007*):

450 [(a)] In a contested case, each party and the agency, including an
451 agency conducting the proceeding, shall be afforded the opportunity
452 (1) to inspect and copy relevant and material records, papers and
453 documents not in the possession of the party or such agency, except as
454 otherwise provided by federal law or any other provision of the
455 general statutes, and (2) at a hearing, to respond, to cross-examine
456 other parties, intervenors [,] and witnesses, and to present evidence
457 and argument on all issues involved.

458 [(b) Persons not named as parties or intervenors may, in the
459 discretion of the presiding officer, be given an opportunity to present
460 oral or written statements. The presiding officer may require any such
461 statement to be given under oath or affirmation.]

462 Sec. 20. Section 4-178 of the general statutes is repealed and the
463 following is substituted in lieu thereof (*Effective October 1, 2007*):

464 In contested cases: (1) Any oral or documentary evidence may be
465 received, but the [agency] presiding officer shall, as a matter of policy,
466 provide for the exclusion of irrelevant, immaterial or unduly
467 repetitious evidence; (2) [agencies shall give effect to] the rules of
468 privilege recognized by law shall be given effect; (3) when a hearing
469 will be expedited and the interests of the parties will not be prejudiced
470 substantially, any part of the evidence may be received in written
471 form; (4) documentary evidence may be received in the form of copies
472 or excerpts, if the original is not readily available, and upon request,
473 parties and the agency, including an agency conducting the
474 proceeding, shall be given an opportunity to compare the copy with
475 the original; (5) a party and [such] the agency, including an agency

476 conducting the proceeding, may conduct cross-examinations required
 477 for a full and true disclosure of the facts; (6) notice may be taken of
 478 judicially cognizable facts; [and of] (7) in a proceeding conducted by
 479 the agency or in an agency review of a proposed final decision, notice
 480 may be taken of generally recognized technical or scientific facts
 481 within the agency's specialized knowledge; [(7)] (8) parties shall be
 482 notified in a timely manner of any material noticed, including any
 483 agency memoranda or data, and they shall be afforded an opportunity
 484 to contest the material so noticed; and [(8) the agency's] (9) in a
 485 proceeding conducted by the agency or in an agency review of a
 486 proposed final decision, the agency may use its experience, technical
 487 competence [,] and specialized knowledge [may be used] in the
 488 evaluation of the evidence.

489 Sec. 21. Section 4-178a of the general statutes is repealed and the
 490 following is substituted in lieu thereof (*Effective October 1, 2007*):

491 If a hearing in a contested case or in a declaratory ruling proceeding
 492 is held before a hearing officer or before less than a majority of the
 493 members of the agency who are authorized by law to render a final
 494 decision, a party, if permitted by regulation and before rendition of the
 495 final decision, may request a review by a majority of the members of
 496 the agency, of any preliminary, procedural or evidentiary ruling made
 497 at the hearing. The majority of the members may make an appropriate
 498 order, including the reconvening of the hearing. The provisions of this
 499 section do not apply to a hearing conducted by an administrative law
 500 judge.

501 Sec. 22. Section 4-179 of the general statutes is repealed and the
 502 following is substituted in lieu thereof (*Effective October 1, 2007*):

503 (a) When, in an agency proceeding that is not conducted by an
 504 administrative law judge, a majority of the members of the agency
 505 who are to render the final decision have not heard the matter or read
 506 the record, the decision, if adverse to a party, shall not be rendered
 507 until a proposed final decision is served upon the parties, and an

508 opportunity is afforded to each party adversely affected to file
509 exceptions and present briefs and oral argument to the members of the
510 agency who are to render the final decision.

511 (b) A proposed final decision made under this section shall be in
512 writing and [contain a statement of the reasons for the decision and a
513 finding of facts and conclusion of law on each issue of fact or law
514 necessary to the decision] shall comply with the requirements of
515 subsection (c) of section 4-180, as amended by this act.

516 (c) Except when authorized by law to render a final decision for an
517 agency, a hearing officer shall, after hearing a matter, make a proposed
518 final decision.

519 (d) The parties and the agency conducting the proceeding, by
520 written stipulation, may waive compliance with this section.

521 Sec. 23. (NEW) (*Effective October 1, 2007*) (a) A proposed final
522 decision rendered by an administrative law judge shall be delivered
523 promptly to each party or the party's authorized representative, and to
524 the agency, personally or by United States mail, certified or registered,
525 postage prepaid, return receipt requested. After such proposed final
526 decision is rendered, the record in the contested case shall be delivered
527 promptly to the agency.

528 (b) A proposed final decision rendered by an administrative law
529 judge shall become a final decision of the agency unless the head of the
530 agency, not later than twenty-one days following the date the
531 proposed final decision is delivered or mailed to the agency, modifies
532 or rejects the proposed final decision, provided the head of the agency
533 may, before expiration of such time period and for good cause, certify
534 the extension of such time period for not more than an additional
535 twenty-one days. If the head of the agency modifies or rejects the
536 proposed final decision, the head of the agency shall state the reason
537 for the modification or rejection on the record. In reviewing a proposed
538 final decision rendered by an administrative law judge, the head of the

539 agency may afford each party, including the agency, an opportunity to
540 present briefs and may afford each party, including the agency, an
541 opportunity to present oral argument.

542 (c) If, within the time period provided in subsection (b) of this
543 section, the head of the agency, in reviewing a proposed final decision
544 rendered by an administrative law judge, determines that additional
545 evidence is necessary, the head of the agency shall refer the matter to
546 the Office of Administrative Hearings. The Chief Administrative Law
547 Judge shall assign the administrative law judge who rendered such
548 proposed final decision to take the additional evidence unless such
549 administrative law judge is unavailable. After taking the additional
550 evidence, the administrative law judge shall, not later than thirty days
551 following such referral, prepare a proposed final decision as provided
552 in this section based on such additional evidence and the record of the
553 prior hearing.

554 (d) A proposed final decision made under this section shall be in
555 writing and shall comply with the requirements of subsection (c) of
556 section 4-180 of the general statutes, as amended by this act.

557 Sec. 24. Section 4-180 of the general statutes is repealed and the
558 following is substituted in lieu thereof (*Effective October 1, 2007*):

559 (a) Each agency and administrative law judge shall proceed with
560 reasonable dispatch to conclude any matter pending before [it] such
561 agency or administrative law judge and, in all hearings of contested
562 cases conducted by the agency or the administrative law judge, shall
563 render a final decision within ninety days following the close of
564 evidence or the due date for the filing of briefs, whichever is later. [, in
565 such proceedings.]

566 (b) If, in any contested case, any agency or administrative law judge
567 fails to comply with the provisions of subsection (a) of this section, [in
568 any contested case, any party thereto] any party to such contested case
569 may apply to the superior court for the judicial district of [Hartford]

570 New Britain for an order requiring the agency or administrative law
 571 judge to render a proposed final decision or a final decision forthwith.
 572 The court, after hearing, shall issue an appropriate order.

573 (c) A final decision in a contested case shall be in writing or, if there
 574 is no proposed final decision, orally stated on the record. [and, if
 575 adverse to a party,] A proposed final decision and a final decision in a
 576 contested case shall include [the agency's] findings of fact and
 577 conclusions of law necessary to [its] the decision and shall be made by
 578 applying all pertinent provisions of law. Findings of fact shall be based
 579 exclusively on the evidence in the record and on matters noticed. The
 580 [agency shall state in] proposed final decision and the final decision
 581 shall contain the name of each party and the most recent mailing
 582 address, provided to the agency, of the party or [his] the party's
 583 authorized representative. If the final decision is orally stated on the
 584 record, each such name and mailing address shall be included in the
 585 record.

586 (d) The final decision shall be delivered promptly to each party or
 587 [his] the party's authorized representative and, in the case of a final
 588 decision by an administrative law judge authorized by law to render
 589 such decision, to the agency, personally or by United States mail,
 590 certified or registered, postage prepaid, return receipt requested. [The]
 591 An agency rendering a final decision shall immediately transmit a
 592 copy of such decision to the Office of Administrative Hearings. A
 593 proposed final decision that becomes a final decision because of
 594 agency inaction, as provided in subsection (b) of section 23 of this act,
 595 shall become effective at the expiration of the time period specified in
 596 said subsection or on a later date specified in such proposed final
 597 decision. Any other final decision shall be effective when personally
 598 delivered or mailed or on a later date specified [by the agency] in such
 599 final decision. The date of delivery or mailing of a proposed final
 600 decision and a final decision shall be endorsed on the front of the
 601 decision or on a transmittal sheet included with the decision.

602 Sec. 25. Subsection (a) of section 4-181 of the general statutes is
603 repealed and the following is substituted in lieu thereof (*Effective*
604 *October 1, 2007*):

605 (a) Unless required for the disposition of ex parte matters
606 authorized by law, no hearing officer, administrative law judge or
607 member of an agency who, in a contested case, is to render a final
608 decision or to make a proposed final decision shall communicate,
609 directly or indirectly, in connection with any issue of fact, with any
610 person or party, or, in connection with any issue of law, with any party
611 or the party's representative, without notice and opportunity for all
612 parties to participate.

613 Sec. 26. Section 4-181a of the general statutes is repealed and the
614 following is substituted in lieu thereof (*Effective October 1, 2007*):

615 (a) (1) Unless otherwise provided by law, a party or the agency in a
616 contested case may, within fifteen days after the personal delivery or
617 mailing of the final decision or within fifteen days after the date that a
618 proposed final decision becomes a final decision because of agency
619 inaction, as provided in subsection (b) of section 23 of this act, file with
620 the [agency] authority that rendered the final decision a petition for
621 reconsideration of the decision on the ground that: (A) An error of fact
622 or law should be corrected; (B) new evidence has been discovered
623 which materially affects the merits of the case and which for good
624 reasons was not presented in the agency proceeding; or (C) other good
625 cause for reconsideration has been shown. Within twenty-five days of
626 the filing of the petition, [the agency] such authority shall decide
627 whether to reconsider the final decision. The failure of [the agency]
628 such authority to make [that] such determination within twenty-five
629 days of such filing shall constitute a denial of the petition.

630 (2) Within forty days of the personal delivery or mailing of the final
631 decision, the [agency] authority that rendered the final decision,
632 regardless of whether a petition for reconsideration has been filed,
633 may decide to reconsider the final decision.

634 (3) If the [agency] authority that rendered the final decision decides
635 to reconsider [a] the final decision, pursuant to subdivision (1) or (2) of
636 this subsection, [the agency] such authority shall proceed in a
637 reasonable time to conduct such additional proceedings as may be
638 necessary to render a decision modifying, affirming or reversing the
639 final decision, provided such decision made after reconsideration shall
640 be rendered not later than ninety days following the date on which
641 [the agency] such authority decides to reconsider the final decision. If
642 [the agency] such authority fails to render such decision made after
643 reconsideration within such ninety-day period, the original final
644 decision shall remain the final decision in the contested case for
645 purposes of any appeal under the provisions of section 4-183, as
646 amended by this act.

647 (4) Except as otherwise provided in subdivision (3) of this
648 subsection, [an agency] a decision made after reconsideration pursuant
649 to this subsection shall become the final decision in the contested case
650 in lieu of the original final decision for purposes of any appeal under
651 the provisions of section 4-183, as amended by this act, including, but
652 not limited to, an appeal of (A) any issue decided by the [agency]
653 authority that rendered the final decision in its original final decision
654 that was not the subject of any petition for reconsideration or [the
655 agency's] such authority's decision made after reconsideration, (B) any
656 issue as to which reconsideration was requested but not granted, and
657 (C) any issue that was reconsidered but not modified by [the agency]
658 such authority from the determination of such issue in the original
659 final decision.

660 (b) On a showing of changed conditions, the [agency] authority that
661 rendered the final decision may reverse or modify the final decision, at
662 any time, at the request of any person or on [the agency's] such
663 authority's own motion. The procedure set forth in this chapter for
664 contested cases shall be applicable to any proceeding in which such
665 reversal or modification of any final decision is to be considered. The
666 party or parties who were the subject of the original final decision, or

667 their successors, if known, and intervenors in the original contested
668 case, shall be notified of the proceeding and shall be given the
669 opportunity to participate in the proceeding. Any decision to reverse
670 or modify a final decision shall make provision for the rights or
671 privileges of any person who has been shown to have relied on such
672 final decision.

673 (c) The [agency] authority that rendered the final decision may,
674 without further proceedings, modify a final decision to correct any
675 clerical error. A person may appeal [that] such modification under the
676 provisions of section 4-183, as amended by this act, or, if an appeal is
677 pending when the modification is made, may amend the appeal.

678 (d) For the purposes of this section and section 4-183, as amended
679 by this act, in the case of a proposed final decision that becomes a final
680 decision because of agency inaction, as provided in subsection (b) of
681 section 23 of this act, the authority that rendered the final decision
682 shall be deemed to be the agency.

683 Sec. 27. Section 4-183 of the general statutes is repealed and the
684 following is substituted in lieu thereof (*Effective October 1, 2007*):

685 (a) A person who has exhausted all administrative remedies
686 available within the agency and who is aggrieved by a final decision
687 may appeal to the Superior Court as provided in this section. The filing
688 of a petition for reconsideration is not a prerequisite to the filing of
689 such an appeal.

690 (b) A person may appeal a preliminary, procedural or intermediate
691 agency action or ruling to the Superior Court if (1) it appears likely that
692 the person will otherwise qualify under this chapter to appeal from the
693 final agency action or ruling, and (2) postponement of the appeal
694 would result in an inadequate remedy.

695 (c) (1) Within forty-five days after mailing of the final decision
696 under section 4-180, as amended by this act, or, if there is no mailing,

697 within forty-five days after personal delivery of the final decision
698 under said section, or (2) within forty-five days after the [agency]
699 authority that rendered the final decision denies a petition for
700 reconsideration of the final decision pursuant to subdivision (1) of
701 subsection (a) of section 4-181a, as amended by this act, or (3) within
702 forty-five days after mailing of the final decision made after
703 reconsideration pursuant to subdivisions (3) and (4) of subsection (a)
704 of section 4-181a, as amended by this act, or, if there is no mailing,
705 within forty-five days after personal delivery of the final decision
706 made after reconsideration pursuant to said subdivisions, or (4) within
707 forty-five days after the expiration of the ninety-day period required
708 under subdivision (3) of subsection (a) of section 4-181a, as amended
709 by this act, if [the agency] such authority decides to reconsider the final
710 decision and fails to render a decision made after reconsideration
711 within such period, or (5) if a proposed final decision becomes a final
712 decision because of agency inaction, as provided in subsection (b) of
713 section 23 of this act, within forty-five days after the decision becomes
714 final, whichever is applicable and is later, a person appealing as
715 provided in this section shall serve a copy of the appeal on the agency
716 [that rendered the final decision] at its office or at the office of the
717 Attorney General in Hartford and file the appeal with the clerk of the
718 superior court for the judicial district of New Britain or for the judicial
719 district wherein the person appealing resides or, if [that] such person is
720 not a resident of this state, with the clerk of the court for the judicial
721 district of New Britain. An appeal of a final decision under this section
722 shall be taken within such applicable forty-five-day period regardless
723 of the effective date of the final decision. Within [that] such time, the
724 person appealing shall also serve a copy of the appeal on each party
725 listed in the final decision at the address shown in the decision,
726 provided failure to make such service within forty-five days on parties
727 other than the agency [that rendered the final decision] shall not
728 deprive the court of jurisdiction over the appeal. Service of the appeal
729 shall be made by United States mail, certified or registered, postage
730 prepaid, return receipt requested, without the use of a state marshal or

731 other officer, or by personal service by a proper officer or indifferent
732 person making service in the same manner as complaints are served in
733 ordinary civil actions. If service of the appeal is made by mail, service
734 shall be effective upon deposit of the appeal in the mail.

735 (d) The person appealing, not later than fifteen days after filing the
736 appeal, shall file or cause to be filed with the clerk of the court an
737 affidavit, or the state marshal's return, stating the date and manner in
738 which a copy of the appeal was served on each party and on the
739 agency [that rendered the final decision,] and, if service was not made
740 on a party, the reason for failure to make service. If the failure to make
741 service causes prejudice to any party to the appeal or to the agency, the
742 court, after hearing, may dismiss the appeal.

743 (e) If service has not been made on a party, the court, on motion,
744 shall make such orders of notice of the appeal as are reasonably
745 calculated to notify each party not yet served.

746 (f) The filing of an appeal shall not, of itself, stay enforcement of [an
747 agency] a final decision. An application for a stay may be made to the
748 agency, to the court or to both. Filing of an application with the agency
749 shall not preclude action by the court. A stay, if granted, shall be on
750 appropriate terms.

751 (g) Within thirty days after the service of the appeal, or within such
752 further time as may be allowed by the court, the agency shall
753 transcribe any portion of the record that has not been transcribed and
754 transmit to the reviewing court the original or a certified copy of the
755 entire record of the proceeding appealed from, which shall include the
756 [agency's] findings of fact and conclusions of law, separately stated. By
757 stipulation of all parties to such appeal proceedings, the record may be
758 shortened. A party unreasonably refusing to stipulate to limit the
759 record may be taxed by the court for the additional costs. The court
760 may require or permit subsequent corrections or additions to the
761 record.

762 (h) If, before the date set for hearing on the merits of an appeal,
 763 application is made to the court for leave to present additional
 764 evidence, and it is shown to the satisfaction of the court that the
 765 additional evidence is material and that there were good reasons for
 766 failure to present it in the proceeding before the [agency] authority that
 767 rendered the final decision, the court may order that the additional
 768 evidence be taken before [the agency] such authority upon conditions
 769 determined by the court. [The agency] Such authority may modify its
 770 findings and decision by reason of the additional evidence and shall
 771 file [that] such evidence and any modifications, new findings [,] or
 772 decisions with the reviewing court.

773 (i) [The] Except as otherwise provided by law, the appeal shall be
 774 conducted by the court without a jury and shall be confined to the
 775 record. If alleged irregularities in procedure before the [agency]
 776 presiding officer are not shown in the record or if facts necessary to
 777 establish aggrievement are not shown in the record, proof limited
 778 thereto may be taken in the court. The court, upon request, shall hear
 779 oral argument and receive written briefs.

780 (j) [The] Unless a different standard of review is provided by law,
 781 the court shall not substitute its judgment for that of the [agency]
 782 authority that rendered the final decision as to the weight of the
 783 evidence on questions of fact. The court shall affirm the final decision
 784 [of the agency] unless the court finds that substantial rights of the
 785 person appealing have been prejudiced because the administrative
 786 findings, inferences, conclusions [,] or decisions are: (1) In violation of
 787 constitutional or statutory provisions; (2) in excess of the statutory
 788 authority of the agency; (3) made upon unlawful procedure; (4)
 789 affected by other error of law; (5) clearly erroneous in view of the
 790 reliable, probative [,] and substantial evidence on the whole record; or
 791 (6) arbitrary or capricious or characterized by abuse of discretion or
 792 clearly unwarranted exercise of discretion. If the court finds such
 793 prejudice, [it] the court shall sustain the appeal and, if appropriate,
 794 may render a judgment under subsection (k) of this section or remand

795 the case for further proceedings. For the purposes of this section, a
796 remand is a final judgment.

797 (k) If a particular agency action is required by law, the court, on
798 sustaining the appeal, may render a judgment that modifies the
799 [agency] final decision, orders the particular agency action, or orders
800 the agency to take such action as may be necessary to effect the
801 particular action.

802 (l) In all appeals taken under this section, costs may be taxed in
803 favor of the prevailing party in the same manner, and to the same
804 extent, that costs are allowed in judgments rendered by the Superior
805 Court. No costs shall be taxed against the state, except as provided in
806 section 4-184a.

807 (m) In any case in which a person appealing claims that [he] such
808 person cannot pay the costs of an appeal under this section, [he] such
809 person shall, within the time permitted for filing the appeal, file with
810 the clerk of the court to which the appeal is to be taken an application
811 for waiver of payment of such fees, costs and necessary expenses,
812 including the requirements of bond, if any. The application shall
813 conform to the requirements prescribed by rule of the judges of the
814 Superior Court. After such hearing as the court determines is
815 necessary, the court shall render its judgment on the application,
816 which judgment shall contain a statement of the facts the court has
817 found, with its conclusions thereon. The filing of the application for the
818 waiver shall toll the time limits for the filing of an appeal until such
819 time as a judgment on such application is rendered.

820 Sec. 28. Subsection (e) of section 1-82a of the general statutes is
821 repealed and the following is substituted in lieu thereof (*Effective*
822 *October 1, 2007*):

823 (e) The judge trial referee shall make public a finding of probable
824 cause not later than five business days after any such finding. At such
825 time the entire record of the investigation shall become public, except

826 that the Office of State Ethics may postpone examination or release of
 827 such public records for a period not to exceed fourteen days for the
 828 purpose of reaching a stipulation agreement pursuant to subsection
 829 [(c)] (d) of section 4-177, as amended by this act. Any such stipulation
 830 agreement or settlement shall be approved by a majority of those
 831 members present and voting.

832 Sec. 29. Subsection (e) of section 1-93a of the general statutes is
 833 repealed and the following is substituted in lieu thereof (*Effective*
 834 *October 1, 2007*):

835 (e) The judge trial referee shall make public a finding of probable
 836 cause not later than five business days after any such finding. At such
 837 time, the entire record of the investigation shall become public, except
 838 that the Office of State Ethics may postpone examination or release of
 839 such public records for a period not to exceed fourteen days for the
 840 purpose of reaching a stipulation agreement pursuant to subsection
 841 [(c)] (d) of section 4-177, as amended by this act. Any stipulation
 842 agreement or settlement entered into for a violation of this part shall be
 843 approved by a majority of its members present and voting.

844 Sec. 30. (*Effective July 1, 2007*) On or before February 6, 2008, the
 845 Chief Administrative Law Judge appointed pursuant to section 2 of
 846 this act shall submit to the joint standing committee of the General
 847 Assembly having cognizance of matters relating to the judiciary a
 848 feasibility analysis and implementation plan for the transfer of
 849 contested cases conducted by the Department of Social Services to the
 850 Office of Administrative Hearings.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section

Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>July 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	New section
Sec. 12	<i>July 1, 2007</i>	2c-2b(e)
Sec. 13	<i>October 1, 2007</i>	4-166
Sec. 14	<i>October 1, 2007</i>	4-176(g)
Sec. 15	<i>October 1, 2007</i>	4-176e
Sec. 16	<i>October 1, 2007</i>	4-177
Sec. 17	<i>October 1, 2007</i>	4-177a
Sec. 18	<i>October 1, 2007</i>	4-177b
Sec. 19	<i>October 1, 2007</i>	4-177c
Sec. 20	<i>October 1, 2007</i>	4-178
Sec. 21	<i>October 1, 2007</i>	4-178a
Sec. 22	<i>October 1, 2007</i>	4-179
Sec. 23	<i>October 1, 2007</i>	New section
Sec. 24	<i>October 1, 2007</i>	4-180
Sec. 25	<i>October 1, 2007</i>	4-181(a)
Sec. 26	<i>October 1, 2007</i>	4-181a
Sec. 27	<i>October 1, 2007</i>	4-183
Sec. 28	<i>October 1, 2007</i>	1-82a(e)
Sec. 29	<i>October 1, 2007</i>	1-93a(e)
Sec. 30	<i>July 1, 2007</i>	New section

Statement of Purpose:

To establish a demonstration project for an Office of Administrative Hearings for purposes of ensuring the impartial administration and conduct of hearings of contested cases.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]